



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tycho Technology, Inc.

File: B-222413.2

Date: May 25, 1990

Mr. Karl Kneisel, for the protester.
James K. White, Esq., and Stacia Davis Le Blanc, Esq.,
Office of the General Counsel, Department of Commerce, for
the agency.
Susan K. McAuliffe, Esq., and Michael R. Golden, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Protest that agency was required to issue a new solicitation to test market before exercising an option is denied where agency reasonably determined that option was the most advantageous offer based upon informal price analysis, considering product availability and other factors.

DECISION

Tycho Technology, Inc., protests the proposed exercise of an option by the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, to procure additional wind profilers from Unisys Corporation under contract No. NA-86-QA-C-101. Tycho challenges the informal price analysis upon which the agency based its determination to exercise the option and argues that the agency should have issued a new solicitation instead.

We deny the protest.

The basic contract was awarded by NOAA, through the National Data Buoy Center of the National Weather Service, to Sperry Corporation, now Unisys, on June 18, 1986, for the design, development, testing, and delivery of prototype wind profiler systems and three production units, as the result of a full and open competition in which seven offerors, including Tycho, submitted proposals. The contract included options for additional production units. The agency has

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procured 30 additional units under Option 3 of the contract. Here, the agency proposes to procure five additional wind profiler systems under option 4 which, under the terms of the modified contract, may be exercised through December 31, 1990. These five wind profilers are proposed for use by the agency's Alaskan Region National Weather Service to monitor the volcano plume and ash fallout from Mount Redoubt that is causing air traffic disruption in the Anchorage, Alaska area. The profilers would provide air traffic controllers with necessary information to route aircraft away from the volcano plume area. The agency has determined that exercising option 4 under its existing contract, at a unit price of \$424,367, is the most advantageous method, price and other factors considered, of procuring the five wind profiler systems.

Tycho contends that the agency's informal price analysis is an insufficient basis for its proposed exercise of the option. Rather, Tycho argues that without issuing a new solicitation, the agency cannot adequately determine that the exercise of the option is "the most advantageous method of fulfilling the Government's need, price and other factors . . . considered," as required under Federal Acquisition Regulation (FAR) § 17.207(c)(3) (FAC 84-49). The protester basically maintains that on resolicitation, Tycho would likely offer a price lower than Unisys' option price. Tycho also alleges that its January 4, 1990 proposal appears to have been ignored by the agency.

The agency points out that an informal analysis of prices or an examination of the market which indicates "that the option price is better than prices available in the market or that the option is the more advantageous offer" is one of three methods specifically set forth in the FAR as a basis for determining whether to exercise an option. FAR § 17.207(d)(2). NOAA states that it fully evaluated Tycho's unsolicited proposal and found that Tycho's unit price of \$465,421 was in excess of the option price of \$424,367, and that it did not include certain other additional items, such as training and manuals, which were included in Unisys' contract option price. NOAA further contends that in light of its scheduling and environmental considerations, its concerns about hardware, communications and satellite compatibility, and the fact that a market survey of the five remaining original offerors indicated that no other current supplier was available, it properly determined that the proposed exercise of option 4, which also offered the lowest price, was the most advantageous method of fulfilling the government's needs. We agree.

Our Office will not question the exercise of an option unless the protester shows that applicable regulations were not followed or that the agency's determination to exercise the option, rather than conduct a new procurement, was unreasonable. Automation Management Corp., B-224924, Jan. 15, 1987, 87-1 CPD ¶ 61. The FAR grants contracting officers wide discretion in determining what constitutes a reasonable informal price analysis or examination of the market for available prices. See Action Mfg. Co., 66 Comp. Gen. 463 (1987), 87-1 CPD ¶ 518. The FAR provides, however, that if it is anticipated (e.g., through an informal price analysis) that the best price available is the option price or that the exercise of the option presents the more advantageous offer, the contracting officer should not issue a new solicitation to test the market. FAR § 17.207(d)(1).


In this case, since we find no basis to question the propriety of the agency's informal price analysis, we do not find that NOAA was required, as the protester suggests, to issue a new solicitation in order to test the market. As stated above, the FAR specifically provides that an informal price analysis is a proper method of determining whether an option is the more advantageous offer, and that if as a result of such analysis it is anticipated that the option price is the best price available, a new solicitation should not be issued. FAR § 17.207(d)(2); FAR § 17.207(d)(1). Here, the agency properly executed a "determination and findings" authorizing the exercise of option 4 based upon the results of its informal price analysis which included its evaluation of Tycho's proposal and a market survey of potential suppliers. The record shows that when Tycho's offered price is compared to Unisys' contract option price, considering the same optional equipment and services, Tycho's proposed unit price is about \$40,000 higher than the option unit price, which would result in a total price disparity of approximately \$200,000 for the five wind profilers.^{1/} The agency also found that, unlike Unisys' option price, Tycho's price did not include the provision of information manuals, or on-site and factory training. We

^{1/} Tycho alleges that its current model includes additional features such as data processing not available under the Unisys basic model and which Unisys offered as separately priced optional items. Thus, Tycho asserts that the agency's comparative evaluation of costs is flawed. The record shows, however, that the agency's cost comparison was based on the same features and that these features are included in Unisys' option price.

find reasonable the agency's determination that its proposed exercise of the option offers the best price available.

Further, we find that other factors support the exercise of this option. First, we note the relatively short period of time available to set up the profilers, due to adverse weather conditions and an immediate need to direct air traffic from the plume area. The exercise of the option eliminates the need to delay for testing to ensure the compatibility of Tycho's product with the present communications system. Second, the agency currently maintains \$1 million of spare parts to support the Unisys system which will be used to support the units procured under this option. Tycho has not shown that these concerns are unreasonable. Therefore, we find that the agency reasonably determined, in accordance with the requirements set out at FAR § 17.207(c), that the exercise of option 4 under its existing contract provided the most advantageous offer to the government.

The protest is denied.


for James F. Hinchman
General Counsel